

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

**TUESDAY, THE SIXTH DAY OF JULY
TWO THOUSAND AND FOUR**

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 3390 of 2004

Between:

Grandhi Narayana Setty S/o late Venkataiah, aged 54 years,
R/o 2/247, Nawabpet, Nellore

..... PETITIONER

AND

- 1 The Commissioner of Prohibition & Excise, Nampally, Hyderabad
- 2 Deputy Commissioner of Prohibition & Excise, Guntur
- 3 Prohibition & Excise Superintendent, Nellore
- 4 B. Penchalaiah S/o Penchalaiah, Managing Partner, M/s. Bharathi Bar & Restaurant, Stonehousepet, Nellore

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ or order or direction, declaring (i) the action of Respondent No.3 in so far as entertaining the application of the respondent No.4 for transfer of his IL-17 Licence in favour of another distinct person in violation of circular Instruction No. 1369/2003/CPE/G.2 dated 03-04-2003 as illegal and arbitrary and accordingly interdict the respondents from according approval for transfer of his Licence (IL-17) bearing No. 21/2003-04 in favour of the third party (ii) and also interdict the respondents from renewing IL-17 Licence bearing No. 21/2003-04 dated 15-04-2003 in favour of the 4th respondent beyond 31st March, 2004.

Counsel for the Petitioner: Mr.RAHIMUDDIN MD.

For the Respondent Nos.1 to 3: GP FOR PROHIBITION & EXCISE.

Counsel for the Respondent No.4 : Sri T.NAGARJUNA REDDY

The Court made the following Order :

Heard the learned senior counsel for the petitioner, the Government Pleader for Prohibition and Excise and Sri T.Nagarjuna Reddy, counsel for the 4th respondent.

The learned counsel for the petitioner contends that the 4th respondent cannot have licence renewed in his favour, since it is within 50 meters of the existing licence, any how, it amounts to grant of fresh licence. Apart from the same, the licensee could have a lawful possession of the premises for grant of licence in the premises and the Commissioner without considering the same cannot renew the licence in favour of the 4th respondent, a third party.

This Court in W.P.No.25516 of 2003, dated, 05-03-2004, had directed the parties to approach the Commissioner Prohibition & Excise, with their respective pleas with regard to the very same licence.

Following the above judgment, this writ petition is disposed of directing the parties to approach the Commissioner, Prohibition and Excise, with their respective pleas. The Commissioner shall consider all the objections raised by the petitioner, which are raised now, before passing appropriate orders either for transfer or renewal of the licence in favour of the 4th respondent and dispose of the same within a period of four weeks from the date of receipt of a copy of this Order.

With the above directions, the Writ Petition is disposed of. No costs.

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

- 1 The Commissioner of Prohibition & Excise, Nampally, Hyderabad
- 2 Deputy Commissioner of Prohibition & Excise, Guntur
- 3 Prohibition & Excise Superintendent, Nellore
4. 2CCs to G.P. for Prohibition and Excise.
5. 2CD copies

prv/ccm